

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSE REZONING
CERTAIN REAL PROPERTY OF APPROXIMATELY 0.68
GROSS ACRE, LOCATED ON THE EAST SIDE OF
BERGER DRIVE, APPROXIMATELY 400 FEET NORTH OF
GISH ROAD, FROM THE HI HEAVY INDUSTRIAL ZONING
DISTRICT TO LI LIGHT INDUSTRIAL ZONING DISTRICT**

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Statement of Exemption was prepared for a rezoning under File No. C21-008, and said Statement of Exemption (CEQA Categorical Exemption Section 15301 for Existing Facilities involving no or negligible expansion of existing or former use) was adopted on December 12, 2021; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the LI Light Industrial Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves the Statement of Exemption as the appropriate environmental clearance for the proposed project prior to acting upon or approving the subject rezoning; and

WHEREAS, the proposed rezoning is consistent with the designation of the site in the applicable General Plan;

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NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The recitals above are incorporated herein.

SECTION 2. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned to the LI Light Industrial Zoning District.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, depicted in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 3. The district map of the City is hereby amended accordingly.

SECTION 4. Any land development approval that is the subject of City File No. C21-008 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this ____ day of _____, 2022 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

PORTION OF LOT 3, AS SHOWN ON THAT CERTAIN MAP OF TRACT NO. 3178, FILED MARCH 22, 1962, [BOOK 144 OF MAPS, PAGE 40](#), SANTA CLARA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF BERGER DRIVE, FORMERLY NYBERG DRIVE, WITH THE LINE DIVIDING LOTS 3 AND 4 OF SAID MAP; THENCE S. 3 DEG 23' 33" E. ALONG SAID LINE OF BERGER DRIVE, 100 FEET TO THE NORTHWEST CORNER OF THE PARCEL OF LAND CONVEYED TO PENNZOIL CO. BY DEED RECORDED MARCH 19, 1964, [BOOK 6430 OFFICIAL RECORDS, PAGE 682](#), THENCE N. 86 DEG 36' 27" E. ALONG THE NORTHERLY LINE OF SAID PARCEL OF LAND, 133.91 FEET TO THE EASTERLY LINE OF SAID LOT 3; THENCE N. 16 DEG 04' 53" W. ALONG EASTERLY LINE, 102.51 FEET TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE S. 86 DEG 36' 27" W. ALONG THE DIVIDING SAID LOTS 3 AND 4, 111.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE UNDERGROUND WATER AND RIGHTS THERETO WITH NO RIGHTS OF SURFACE ENTRY, AS CONVEYED TO SAN JOSE WATER WORKS, A CORPORATION BY DEED RECORDED MARCH 30, 1962 IN [BOOK 5520, PAGE 86](#), OFFICIAL RECORDS.

PARCEL TWO:

BEGINNING AT A POINT IN THE EASTERLY LINE OF BERGER DRIVE, FORMERLY NYBERG DRIVE, DISTANT THEREON N. 3 DEG 23' 33" W. 82.41 FROM THE INTERSECTION THEREOF WITH THE LINE DIVIDING LOTS 2 AND 3, AS SAID DRIVE AND LOTS ARE SHOWN UPON THE MAP HEREINAFTER REFERRED TO; THENCE CONTINUING ALONG SAID LINE OF BERGER DRIVE N. 3 DEG 23' 33" W. 120.00 FEET; THENCE LEAVING SAID LINE AND RUNNING N. 86 DEG 36' 27" E. 133.91 FEET TO A POINT IN THE NORTHEASTERLY LINE OF SAID LOT 3; THENCE S. 16 DEG 04' 53" E. ALONG SAID NORTHEASTERLY LINE OF LOT 3, 123.01 FEET TO A POINT WHICH BEARS N. 86 DEG 36' 27" E. 160.93 FEET FROM THE POINT OF BEGINNING; THENCE S. 86 DEG 36' 27" W 160.93 FEET TO THE POINT OF BEGINNING, AND BEING A PORTION OF LOT 3, AS SHOWN ON THE MAP OF TRACT NO. 3178, BEING A PORTION OF 550 ACRE LOT 19 OF SAN JOSE CITY LANDS, AND WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 22, 1962 IN [BOOK 144 OF MAPS, AT PAGE 40](#).

EXCEPTING THEREFROM THE UNDERGROUND WATER AND RIGHTS THERETO, WITH NO RIGHTS OF SURFACE ENTRY, AS CONVEYED TO SAN JOSE WATER WORKS, A CALIFORNIA CORPORATION BY DEED RECORDED MARCH 30, 1962 IN [BOOK 5520, PAGE 86](#), OFFICIAL RECORDS.

APN: 237-04-024(Affects: Parcel Two) and 237-04-025 (Affects: Parcel One)